D.B.CIVIL SPECIAL APPEAL NO. 422/2004
Ram Chandra v. v. State of Rajasthan & ors.

Date of order : 15.11.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Girish Sankhla for the appellant
Shri R.S.Choudhary , Addl. Advocate General

This special appeal is directed against the order of the learned Single Judge in S.B.Civil Writ Petition no. 1772/2004 dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging the validity of an award made by Assistant Registrar exercising the power of arbitrator under section 60 of the Rajasthan Co-operative Societies Act, 2001. The award of the arbitrator could be challenged before the Rajasthan State Co-operative Tribunal under section 105 (10) (d) of the said Act but as the Tribunal was not functioning at the relevant time, the appellant filed the writ petition in this Court.

After hearing counsel for the parties we are of the view that the arbitrator should have given an opportunity to the parties to lead evidence. That apart, the discussion on the points at issue is not satisfactory and therefore, we are of the view that the dispute may be reconsidered on merit. In the ordinary course we should have

relegated the appellant to the remedy of appeal before Tribunal but considering the apparent infirmities in the award, we think, it would be in the interest of justice to direct the arbitrator to reconsider the matter.

In these circumstances we set aside the award dated 11.2.2004, as also the impugned order of the learned Single Judge dated 26.4.2004.

It may be mentioned that the sum of Rs. 49,265/- has been deposited by the appellant under protest pursuant to direction of this Court. The deposits will abide by the ultimate decision of the arbitrator.

The appeal stands disposed of.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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